

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RECEIVED  
SDNY PRO SE CLERK  
2019 NOV 18 PM 3:04

Jesus Manuel Fando AKA Manuel J. Fando  
107 GRANT ST. J.C. N.J. 07307

19 CV 10718

Write the full name of each plaintiff.

CV

(Include case number if one has been assigned)

-against-

New York Stock Exchange (NYSE)  
Jerome Levy, David Carey, Jeanne Miller  
Securities & Exchange Commission (SEC)  
Harvey Goldschmid, Susan Wyderka, Al Ponce

Write the full name of each defendant. If you need more space, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section II.

"see attached"

COMPLAINT

Do you want a jury trial?

☐ Yes ☐ No

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

## I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

☒ Federal Question

☐ Diversity of Citizenship

### A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

Agency Failure - Constitutional Failure.

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### B. If you checked Diversity of Citizenship

#### 1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, \_\_\_\_\_, is a citizen of the State of \_\_\_\_\_  
(Plaintiff's name)

\_\_\_\_\_  
(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of \_\_\_\_\_

\_\_\_\_\_  
If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, Jerome Levy, is a citizen of the State of  
(Defendant's name)

New York

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

If the defendant is a corporation:

The defendant, New York Stock Exchange, is incorporated under the laws of  
the State of New York

and has its principal place of business in the State of New York

or is incorporated under the laws of (foreign state) \_\_\_\_\_

and has its principal place of business in N.Y.N.Y.

If more than one defendant is named in the complaint, attach additional pages providing information for each additional defendant.

## II. PARTIES

### A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Manuel J. Fancia  
First Name Middle Initial Last Name

167 Griffith St.  
Street Address

Hudson County Jersey City N.J. 07307  
County, City State Zip Code

973-388-3344 Fancia Manuel@gmail.com  
Telephone Number Email Address (if available)

**B. Defendant Information**

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:	<u>Jerome</u>	<u>Levy</u>
	First Name	Last Name
	<u>Arbitrator.</u>	
	Current Job Title (or other identifying information)	
	<u>11 Wall St.</u>	
	Current Work Address (or other address where defendant may be served)	
	<u>N.Y.C.</u>	<u>N.Y.</u> <u>10005</u>
	County, City	State Zip Code
Defendant 2:	<u>David</u>	<u>Carey</u>
	First Name	Last Name
	<u>Chief Legal Counsel</u>	
	Current Job Title (or other identifying information)	
	<u>11 Wall St.</u>	
	Current Work Address (or other address where defendant may be served)	
	<u>N.Y.C.</u>	<u>N.Y.</u> <u>10005</u>
	County, City	State Zip Code
Defendant 3:	<u>Joanne</u>	<u>Miller</u>
	First Name	Last Name
	<u>Arbitrator</u>	
	Current Job Title (or other identifying information)	
	<u>11 Wall St.</u>	
	Current Work Address (or other address where defendant may be served)	
	<u>N.Y.C.</u>	<u>N.Y.</u> <u>10005</u>
	County, City	State Zip Code



**INJURIES:**

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

*See Attached.*

**IV. RELIEF**

State briefly what money damages or other relief you want the court to order.

*See Attached*

**V. PLAINTIFF'S CERTIFICATION AND WARNINGS**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

11/18/19  
 Dated  
Manuel J. Fancice  
 First Name Middle Initial Last Name  
167 Garfield St.  
 Street Address  
Aurora, Jersey City N.J. 07307  
 County, City State Zip Code  
973-388-3344  
 Telephone Number  
Fancice Manuel@gmail.com  
 Email Address (if available)

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☒ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

Manuel J. Funcia  
167 Griffith St.  
Jersey City, New Jersey 07307  
(973) 388-3344

RECEIVED  
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2019/11/18 PM 3:04

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JESUS MANUEL FUNCIA AKA MANUEL J. FUNCIA,

Plaintiff.

vs.

NEW YORK STOCK EXCHANGE NYSE GROUP (JEROME  
LEVY, DAVID CAREY AND JEANNE MILLER)  
SECURITIES AND EXCHANGE COMMISSION (SEC), HARVEY  
GOLDSCHMIT, SUSAN WYDERKA, AL PENZA, AND JIM  
CLARKSON, ABN-Amro, ING, Furman Selz, Micheal  
Pytrcki, David Duffy  
Defendants.

MOTION TO FILE FOR JUDICIAL  
REVIEW

PLEASE TAKE NOTICE THAT, Mr. Funcia is seeking Judicial Review due to the Gross Negligence, Dereliction of Duty and Agency Failure on the part of the SEC. That we have as proof the Freedom of Information Act (19-00070-FOIA, 19-02372-FOIA). The SEC, Harvey Goldschmidt, Susan Wyderka, had been contacted by Mr. Funcia before the arbitration processes started. Later after the arbitration Mr. Funcia contacted the SEC Washington office once again by reaching out to Al Pensa. Documents of proof were sent to Mr. Pensa via email to the SEC office. Later during the District court and Appellate court battle with the NYSE, No response from the SEC office either in New York or Washington. Mr. Funcia then proceeded to contact and deliver documents and evidence to Jim Clarkson. Then newly appointed head of



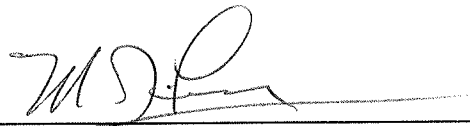
the SEC office in New York City. This occurred in late 2008, shortly after the Madoff incident came out. In a proceeding conversation with Mr. Clarkson it was explained that SEC had failed to do its job in no uncertain terms. Mr. Clarkson after reviewing the documents had informed me that "My people will be back to you." Since no one reached out to me the FOIA was used to find said documents and force the court to hold the SEC and NYSE group responsible. The SEC for its dereliction and the NYSE group for its stained arbitration (date of stained arbitration and MS. Miller misconduct is October 28, 2004), a failure to arbitrate, Two Delinquent Supervision. One for Mr. William J. Hackett for his Malice and Reckless behavior and the other for Ms. Jeanne Miller who was dismissed by Mr. Funcia for her misconduct, gross and completely biased behavior. The SEC is to be held responsible for its Dereliction to the tune of 7 million US Dollars. The NYSE group 7.4 million for its Failure to arbitrate and held responsible for Ms. Miller's misconduct to the tune of an additional 7 million dollars. Last court ruling 07 CV 1745 (RWS) (MHD)

We have an Open Hate Crime committed by Mr. Hackett and the parties mentioned Must be held accountable. Mr. Levy was told about the arbitrator being completely out of control. Mr. Funcia personally dismissed her in no uncertain terms. Still the exchange and Mr. Levy failed to remedy the simple fact that we now had and have two separate Delinquent Supervisions. Now as a result of the SEC failure we have a third charge of Agency Failure. The SEC failed in its duty. Mr. Funcia had contacted the SEC before, during and after the arbitration, the courts had no knowledge that the SEC had been contacted and were completely derelict in their duty.

We have a failure here that needs your legal understanding. We have an incident that seems to have fallen through the cracks. An incident that should never happen again. An extremely egregious example of Agency Failure.

Mr. Funcia next course of action is to contact the New York Times and Wall Street Journal over this perverse fail on the part of the parties. Open hate crimes on the trading desk and absolutely nothing is done about it at any level.

11/14/19

A handwritten signature in black ink, appearing to read 'M. J. Funcia', is written over a horizontal line.

Manuel J. Funcia

JS 44C/SDNY  
REV. 06/01/17

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS *José Manuel Funeira*

DEFENDANTS

*NYSE Group et Al*  
*see attached.*

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

*(PRO SE)* *Manuel Funeira*  
*807 Canal St.*  
*J.C. N.Y. 07307*CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)*Agency Failure* *28 USC § 1331*

Judge Previously Assigned

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☒ Yes ☐If yes, was this case Vol. ☐ Invol. ☒ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. *07 cv 1745*

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No ☐ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

## NATURE OF SUIT

## TORTS

## ACTIONS UNDER STATUTES

## CONTRACT

- [ ] 110 INSURANCE  
[ ] 120 MARINE  
[ ] 130 MILLER ACT  
[ ] 140 NEGOTIABLE INSTRUMENT  
[ ] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT  
[ ] 151 MEDICARE ACT  
[ ] 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)  
[ ] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS  
[ ] 160 STOCKHOLDERS SUITS  
[ ] 190 OTHER CONTRACT  
[ ] 195 CONTRACT PRODUCT LIABILITY  
[ ] 196 FRANCHISE

## PERSONAL INJURY

- [ ] 310 AIRPLANE  
[ ] 315 AIRPLANE PRODUCT LIABILITY  
[ ] 320 ASSAULT, LIBEL & SLANDER  
[ ] 330 FEDERAL EMPLOYERS' LIABILITY  
[ ] 340 MARINE  
[ ] 345 MARINE PRODUCT LIABILITY  
[ ] 350 MOTOR VEHICLE  
[ ] 355 MOTOR VEHICLE PRODUCT LIABILITY  
[ ] 360 OTHER PERSONAL INJURY  
[ ] 362 PERSONAL INJURY - MED MALPRACTICE

## ACTIONS UNDER STATUTES

## CIVIL RIGHTS

- [ ] 440 OTHER CIVIL RIGHTS (Non-Prisoner)  
[ ] 441 VOTING  
[ ] 442 EMPLOYMENT  
[ ] 443 HOUSING/  
[ ] 445 ACCOMMODATIONS  
[ ] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT  
[ ] 446 AMERICANS WITH DISABILITIES - OTHER  
[ ] 448 EDUCATION

## PERSONAL INJURY

- [ ] 367 HEALTHCARE/ PHARMACEUTICAL PERSONAL INJURY/PRODUCT LIABILITY  
[ ] 365 PERSONAL INJURY PRODUCT LIABILITY  
[ ] 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY  
[ ] 370 OTHER FRAUD  
[ ] 371 TRUTH IN LENDING  
[ ] 380 OTHER PERSONAL PROPERTY DAMAGE  
[ ] 385 PROPERTY DAMAGE PRODUCT LIABILITY

## PERSONAL PROPERTY

- [ ] 370 OTHER FRAUD  
[ ] 371 TRUTH IN LENDING  
[ ] 380 OTHER PERSONAL PROPERTY DAMAGE  
[ ] 385 PROPERTY DAMAGE PRODUCT LIABILITY  
[ ] 510 MOTIONS TO VACATE SENTENCE  
[ ] 530 HABEAS CORPUS  
[ ] 535 DEATH PENALTY  
[ ] 540 MANDAMUS & OTHER

## PRISONER CIVIL RIGHTS

- [ ] 550 CIVIL RIGHTS  
[ ] 555 PRISON CONDITION  
[ ] 560 CIVIL DETAINEE CONDITIONS OF CONFINEMENT

## FORFEITURE/PENALTY

- [ ] 625 DRUG RELATED SEIZURE OF PROPERTY  
21 USC 881  
[ ] 690 OTHER

## PROPERTY RIGHTS

- [ ] 820 COPYRIGHTS  
[ ] 830 PATENT  
[ ] 835 PATENT-ABBREVIATED NEW DRUG APPLICATION  
[ ] 840 TRADEMARK

## LABOR

- [ ] 710 FAIR LABOR STANDARDS ACT  
[ ] 720 LABOR/MGMT RELATIONS  
[ ] 740 RAILWAY LABOR ACT  
[ ] 751 FAMILY MEDICAL LEAVE ACT (FMLA)  
[ ] 790 OTHER LABOR LITIGATION  
[ ] 791 EMPL RET INC SECURITY ACT (ERISA)

## IMMIGRATION

- [ ] 462 NATURALIZATION APPLICATION  
[ ] 465 OTHER IMMIGRATION ACTIONS

## BANKRUPTCY

- [ ] 422 APPEAL  
28 USC 158  
[ ] 423 WITHDRAWAL  
28 USC 157

## SOCIAL SECURITY

- [ ] 861 HIA (1395ff)  
[ ] 862 BLACK LUNG (923)  
[ ] 863 DIWC/DIWW (405(g))  
[ ] 864 SSID TITLE XVI  
[ ] 865 RSI (405(g))

## FEDERAL TAX SUITS

- [ ] 870 TAXES (U.S. Plaintiff or Defendant)  
[ ] 871 IRS-THIRD PARTY  
26 USC 7609

## OTHER STATUTES

- [ ] 375 FALSE CLAIMS  
[ ] 376 QUI TAM  
[ ] 400 STATE REAPPORTIONMENT  
[ ] 410 ANTITRUST  
[ ] 430 BANKS & BANKING  
[ ] 450 COMMERCE  
[ ] 460 DEPORTATION  
[ ] 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)  
[ ] 480 CONSUMER CREDIT  
[ ] 490 CABLE/SATELLITE TV  
[ ] 850 SECURITIES/ COMMODITIES/ EXCHANGE  
[ ] 890 OTHER STATUTORY ACTIONS  
[ ] 891 AGRICULTURAL ACTS  
[ ] 893 ENVIRONMENTAL MATTERS  
[ ] 895 FREEDOM OF INFORMATION ACT  
[ ] 896 ARBITRATION  
[ ] 899 ADMINISTRATIVE PROCEDURE ACT/REVIEW OR APPEAL OF AGENCY DECISION  
[ ] 950 CONSTITUTIONALITY OF STATE STATUTES

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y. AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13?

IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).